

TRANSMITTAL OF AMENDED APPEAL BRIEF		Docket No. 418268771US	
In re Application of: Buskirk et al.			
Application No. 09/539,026-Conf. #7676	Filing Date March 30, 2000	Examiner H. El Chanti	Group Art Unit 2157
Invention: MULTIPONT PROCESSING UNIT			
<u>TO THE COMMISSIONER OF PATENTS:</u>			
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Dated: <u>November 14, 2006</u>			

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Van Buskirk et al.

Application No.: 09/539,026

Confirmation No.: 7676

Filed: March 30, 2000

Art Unit: 2157

For: MULTIPOINT PROCESSING UNIT

Examiner: Hussein A. El Chanti

AMENDED APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Amended Appeal Brief is submitted in response to the Notification of Non-Compliant Appeal Brief (37 C.F.R. 41.37) dated October 19, 2006 in the above-identified matter currently on appeal. In the Notification, under Item 10, the Examiner stated that the brief did not contain the appropriate headings or in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of 37 C.F.R. 41.37. In particular, the Examiner indicated that Section VIII through Section X of the brief were not numbered. Accordingly, the appropriate revisions to the format of Sections VIII-X have been made, and Applicants respectfully submit this Amended Appeal Brief for reconsideration by the Examiner.

This amended brief is in furtherance of the Notice of Appeal in this application filed on January 19, 2006. The fees required under 37 C.F.R. § 41.20(b)(2), and any required petition for extension of time for filing and associated fees, were paid on July 18, 2006 concurrently with the Appeal Brief of the same date. The Amended Appeal Brief is submitted within 30 days of the mailing date of the Notification of Non-Compliant Appeal Brief. As a result, Applicants believe no additional fee is due. However, the Commissioner

is authorized to charge any deficiency in the fees filed, asserted to be filed, or which should have been filed herewith to our Deposit Account No. 50-0665, under Order No. 418268771US.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37. The complete Table of Contents follows.

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I. REAL PARTY IN INTEREST

The real party in interest is Microsoft Corporation of Redmond, Washington.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

Neither Appellants, Appellants' legal representative, nor the Assignee are aware of any other prior or pending appeals, interferences, or judicial proceedings which may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in the present appeal.

III. STATUS OF CLAIMS

Claims 1-54 have been presented. Claims 42-54 have been canceled during prosecution. Claims 1-41 are therefore presently pending, and stand finally rejected.

Claims 1-8 and 10-41 are the subject of the present appeal. The text of these claims is set forth below in the Claims Appendix.

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to a final Office Action dated October 19, 2005. Appellants have discovered a minor typographical error in claims 8 and 18.¹ Appellants will file an amendment to correct these errors after disposition of the appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER**A. Overview of the Invention and Prior Art****1. The Invention**

Appellants' invention is directed to an application program interface (API) of a multipoint processing module, also referred to as a multipoint processing terminal (MPT). The MPT provides the mixing, switching, and processing of media (e.g., audio, video, and data) streams. See, e.g., Specification, 6:16-19. As is generally known in the software programming art, an API defines an interface to routines or methods (e.g., formal

¹ Claim 8 should have "computer-readable medium" substituted for "method" and a "." inserted after the last word of the claim. Claim 18 should have ":" substituted for ";" after the last word of the claim.

parameters of the methods) that can be referenced by a software component in order to access the services provided by the provider of the API. The MPT's API exposes a set of methods by which software components, such as application programs, can utilize the functionality of the MPT. See, e.g., *Id.*, 17:8-11; 18:1-4; 19:15-17; 20:6-9. An application program can utilize the MPT's API to receive the results of the operation of the MPT and/or control the functioning of the MPT. By way of example, one application may use aspects of the API to receive videoconferencing functionality using computing devices and associated peripherals, and another application may use aspects of the API to receive teleconferencing functionality.

In one aspect of Appellants' invention, the MPT's API exposes methods that application programs can utilize to change the default behavior of the MPT. *Id.*, 6:20-23. The API exposes methods that allow for controlling the routing of audio and/or video input streams to output streams. For example, an application program can use one method to retrieve from the MPT an indication of how a set of audio input streams are being routed to another set of audio output streams, and another method to specify to the MPT how the set of audio input streams should be routed to another set of audio output streams. Similarly, an application program can use analogous methods for video streams. *Id.*, 17:1-27:19. In this manner, the API exposed by the MPT enables external application programs to control the operation of the MPT in a multipoint conference.

2. The McDougall Reference

U.S. Patent No. 5,999,966 issued to McDougall et al. ("McDougall") discloses a system and method that allows video conference participants to establish and direct a video conference through a control network that is separate from a conference network. See, e.g., McDougall, Abstract; 2:35-38. The system includes a video conferencing switch that provides video conferencing control capability for engaging and directing a video conference amongst participants employing dissimilar coder/decoder (CODEC)-based desktop conferencing hardware. *Id.*, 2:29-34; 6:30-33. The video conferencing switch is a hardware device that connects to both the control network and the conference network. See, e.g., *Id.*, Figs., 1-3. The control network, which is different from the conference

network, provides a control pathway that allows for the remote control of the video conferencing switch. *Id.*, 8:8-10. The conference network interconnects the terminals of the potential conference participants to the video conferencing switch. *Id.*, 6:38-44. The video conferencing switch includes a terminal interface, which is a physical circuit that receives commands for controlling the video conferencing switch from external sources. *Id.*, Figs. 2 and 3; 6:45-48.

Although McDougall describes the components and functionality of the video conferencing switch in detail, McDougall contains no indication that any of the video conferencing switch's interfaces are an API. For example, in describing the terminal interface component of the video conferencing switch, McDougall specifically states that the terminal interface is a circuit that can mediate signal conditions between the conference network and the internal bus. *Id.*, 6:45-48. McDougall contains no indication that the video conferencing switch's terminal interface or any other interface is suitable for use by application programs.

B. Independent Claims on Appeal

The rejected independent claims are directed to various techniques for communicating with an MPT through the MPT's API. The independent claims are described as follows:

1. Claim 1

Claim 1 is directed to a computer-readable medium containing computer-executable instructions for communicating between an application and a multipoint processing module adapted to mix, switch, and process media streams. The multipoint processing module contains at least one audio processor module for processing audio data in a multipoint conference and at least one video processor module for processing video data in a multipoint conference. See, e.g., Specification, 6:16-19; 14:12-16:22; Figs. 2-5. The computer-executable instructions expose at least one application program interface by the multipoint processing module to receive a request from the application. The request commands the multipoint processing module to modify a default operation of the multipoint

processing module to alter at least one attribute of at least one of the audio processor module and video processor module. See, e.g., *Id.*, 17:1-27:19.

2. Claim 13

Claim 13 is directed to a method to communicate between a media service provider component and a multipoint processing module adapted to mix, switch, and process media streams. See, e.g., Specification, 15:1-6; Fig. 3. The multipoint processing module controls an encoder module and a decoder module for processing video data in a multipoint conference. The method includes exposing at least one application program interface by one of the media service provider component and the multipoint processing module to communicate commands and indications between the media service provider component and the multipoint processing module. See, e.g., *Id.*, 17:1-27:19.

3. Claim 21

Claim 21 is directed to a multipoint processing accelerator apparatus for transmitting audio and video data over a plurality of channels in a multipoint conference being controlled by an application via an application program interface of the multipoint processing accelerator apparatus. See, e.g., Specification, 6:16-7:1. The multipoint processing accelerator apparatus comprises at least one hardware module and a minidriver. See, e.g., *Id.*, Fig. 4. The hardware module has a default operation for applying signal processing operations to at least one of the audio and video data. The minidriver communicates with the application through at least one property set to do one of receiving a command to modify the default operation of the at least one hardware module and sending a command to the application. See, e.g., *Id.*, 15:7-23.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. The Examiner's Rejections

The Examiner has rejected all of the pending claims being appealed on the following basis:

The Examiner rejected claims 1-8 and 10-41 under 35 U.S.C. § 102(e) over McDougall.

B. The Issues on Appeal

The issues on appeal, and the specific pending claims to which each relates, are:

1. Whether the Examiner's position that a terminal interface is the same as an API is correct. The decision on this issue impacts all pending claims on appeal.
2. Whether McDougall discloses an API exposed by an MPT. The decision on this issue impacts all pending claims on appeal.
3. Whether the Examiner has established even a *prima facie* case of anticipation by simply pointing to various sections of the McDougall reference without any explanation of how those sections apply to the elements of the various claims.

VII. ARGUMENTS

A. Discussion of Issues

1. A Terminal Interface is Hardware and an API is Software

It is the Examiner's position that a terminal interface is the same as an API.² The Examiner, however, provides no support for this position, and furthermore, those skilled in the art do not consider a terminal interface to be an API. In particular, as McDougall indicates, a terminal interface is hardware, whereas an API is software. McDougall makes it clear that a terminal interface is hardware by stating that "terminal interface 24 may be any circuit that can mediate signal conditions." McDougall, 6:45-48. Further, it is generally known and accepted by those of skill in the art that a terminal is an input/output device that is capable of transmitting entries to and obtaining output from the system of which it is a part. It is also generally known and accepted that an interface is a shared electrical boundary between parts of a computer system, through which information is conveyed. Thus, one of ordinary skill in the art would conclude that a terminal interface is a hardware interface that relays signals between a connected terminal device and the system to which the terminal interface is a part. This definition is consistent with the usage and description of the term "terminal interface" in McDougall.

² The Examiner states that "CODECs preferably access conference participants through a terminal interface, i.e., 'application program interface'." Office Action, October 19, 2005, p. 14.

In contrast, it is known and generally accepted by those of skill in the art that an API is a functional interface supplied by a software program, such as an operating system or other software programs, which allows an application program to use specific data or functions of the software program. It is also generally known and accepted that an API is for use by software applications. For example, an API provides software functions and/or methods for use by software applications. This accepted meaning of API is consistent with Appellants' understanding and use of API, which, as recited in the claims, is software in that the APIs provide software applications the capability to, for example, control the functioning of the MPT. See, e.g., Specification, 6:20-23. By way of example, Appellant's specification clearly states that the ITMPAudioTopologyControl interface, which is one of several interfaces exposed by the MPT and described in the Specification, contains a set of methods for allowing an application to control the routing of audio input streams to the audio output streams. *Id.*, 17:1-21. Conversely, a terminal interface is not for use by software applications but, rather, is for use by hardware devices, such as terminals. Because a terminal interface does not provide an interface that is suitable for use by software applications, a terminal interface can not be the same as an API.

2. McDougall Does Not Disclose an API Exposed by an MPT

All of the pending independent claims recite an API that is exposed by an MPT for interfacing software components. For example, claim 1 recites "exposing at least one application program interface by the multipoint processing module," claim 13 recites "exposing at least one application program interface by one of the media service provider component[s]," and claim 21 recites "the application controlling the apparatus by an application program interface of the apparatus."

McDougall does not disclose an MPT having an API. The Examiner characterized McDougall's discussion of the configuration of a crosspoint switch at 10:48-11:11 as disclosing an API exposed by the MPT, where the API is for interfacing software components. Office Action, October 19, 2005, p. 3. The Examiner is mistaken.

McDougall's discussion of the crosspoint switch at 10:48-11:11 is merely a description of the configuration of the crosspoint switch in a video follows audio (VFA) mode for four participants. There is nothing in that description of the VFA configuration of the crosspoint switch that teaches or suggests, either explicitly or implicitly, an API for interfacing software components to the video conferencing switch of McDougall's system. Rather, McDougall specifically explains that:

Multi-port crosspoint switch 62 is, in a preferred embodiment, an 8x8 video crosspoint switch such as the MAXIM MAX456 which is a matrix of 64 T-switches that are digitally controllable.

McDougall, 10:53-56. The matrix of T-switches is a hardware device that is suitable for directing signals from an incoming port to an outgoing port. *Id.*, 10:46-53. The description of the crosspoint switch in the VFA configuration indicates that CODECs interface with the crosspoint switch via signals. *Id.*, 10:59-11:12. This description is consistent with the illustration of the crosspoint switch in Figure 5. Nowhere in the sections of McDougall referenced by the Examiner, or any other section of McDougall, is there a teaching or suggestion that the crosspoint switch exposes an API.

In response to Appellants' argument that McDougall does not disclose exposing an API, the Examiner responded by stating:

McDougall teaches a host machine may produce CODEC conference signals that direct plural CODECs to selectively engage or delete conference participants. The CODECs preferably access conference participants through a terminal interface, i.e. "application program interface" that conditions video and audio signals between the CODECs and the conference network. The host machine generates adaptor conference signals that are interpreted, in a preferred embodiment, by a micro-code driven microprocessor or microcontroller to appropriately configure the crosspoint switch in correspondence with the control signals (see col. 3 lines 15-30).

Office Action, October 19, 2005, pp. 14-15. The above-cited section of McDougall does not disclose an API exposed by an MPT. Although McDougall may suggest that a host machine produces signals to control the CODEC, there is nothing in McDougall to suggest that the host contains an API to facilitate the producing of the signals. Indeed, it would

appear that one would need to learn the hardware protocol of the CODEC and control it using low-level instructions of the host, without the benefit of an API. Rather, McDougall specifically states that the terminal interface is hardware. McDougall, 6:45-48. Moreover, as explained above in Section VII.A.1, a terminal interface is hardware, while an API is software.

Thus, the Examiner's conclusory assertion that a terminal interface is the same as an API is contrary to how one skilled in the art views a terminal interface and an API. Accordingly, McDougall does not disclose an API exposed by an MPT.

3. The Examiner Has Failed to Establish a *Prima Facie* Case of Anticipation of Claims 3, 5, 7, 8, 11, 15-20, 23, 25, 33 and 35

The Examiner rejected each of claims 3, 5, 7, 8, 11, 15-20, 23, 25, 33 and 35 by merely indicating a section of McDougall without providing any explanation of how the indicated section applies to the various elements recited in these claims. As will be further discussed below, the Examiner's failure to provide an explanation of how the indicated sections apply to the various elements recited in claims 3, 5, 7, 8, 11, 15-20, 23, 25, 33 and 35 constitute a failure of the Examiner to establish a *prima facie* case of anticipation, and the rejection of these claims should be reversed.

B. Rejections Under 35 U.S.C. § 102(e)

1. Legal Standards for Anticipation

The Examiner has rejected claims 1-8 and 10-41 as being anticipated under 35 U.S.C. § 102(e), which provides:

A person shall be entitled to a patent unless—

...

(e) the invention was described in . . . a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) [35 USCS § 351(a)] shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

To establish a *prima facie* case of anticipation, the Examiner must identify where "each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1462 (Bd. Pat. App. & Interf. 1990).

Moreover, anticipation requires that each claim element must be identical to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg. & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995). Indeed, the failure to mention "a claimed element (in) a prior art reference is enough to negate anticipation by that reference." *Atlas Powder Co. v. E.I. duPont De Nemours*, 750 F.2d 1569, 1574 (1984).

2. Rejection of Claims 1, 2, 4, 6, 10, 12-14 21, 22, 24, 26-32, 34 and 36-41

Claims 1, 2, 4, 6, 10, 12-14, 21, 22, 24, 26-32, 34 and 36-41 recite an API that is exposed by an MPT for interfacing software components. For example, independent claim 1 recites "exposing at least one application program interface by the multipoint processing module," independent claim 13 recites "exposing at least one application program interface by one of the media service provider component[s]," and independent claim 21 recites "the application controlling the apparatus by an application program interface of the apparatus." Claims 2, 4, 6, 10 and 12 depend directly or indirectly from independent claim 1, claim 14 depends from independent claim 13, and claims 22, 24, 26-32, 34 and 36-41 depend directly or indirectly from independent claim 21.

The Examiner has not identified anywhere in McDougall that discloses an API that is exposed by an MPT, as recited in these claims. As explained above in Section VII.A.2, McDougall does not disclose an exposed API. In response to Appellants' argument that McDougall does not disclose an exposed API, the Examiner asserted that McDougall's terminal interface teaches Appellants' API in that a terminal interface is the same as an API. As explained above in Section VII.A.1, the Examiner's position that a terminal interface is the same as an API is inconsistent with both McDougall's own uses of a terminal interface and the generally known and accepted definitions of a terminal interface and an API. For at least these reasons, claims 1, 2, 4, 6, 10, 12-14, 21, 22, 24, 26-32, 34

and 36-41 are not anticipated by McDougall, and the rejection of these claims should be reversed.

3. Rejection of Claims 3 and 7

Claims 3 and 7 depend indirectly from independent claim 1. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 1, claims 3 and 7 are not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, these claims should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claims 3 and 7 recite "a command to retrieve a minimum value, a maximum value, and a default value for an audio crossbar control parameter," and "a command to retrieve a mixing capability and a transcoding capability of the audio crossbar." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claims 3 and 7. In rejecting these claims, the Examiner merely indicated, without providing any further explanation, that the elements of these claims are disclosed by columns 15 and 16 of McDougall. Office Action, October 19, 2005, pp. 3-6. McDougall simply does not do so. Although the cited portion of McDougall describes message formats for controlling the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claims 3 and 7. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claims 3 and 7, and the rejection of these claims should be reversed.

4. Rejection of Claim 5

Claim 5 depends indirectly from independent claim 1. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 1, claim 5 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 5 recites "a command to retrieve a minimum value, a maximum value, and a default

value for a video crossbar control parameter," and "a command to retrieve a mixing capability and a transcoding capability of the video crossbar." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 5. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by col. 15, lines 39-col. 16, lines 50 of McDougall. Office Action, October 19, 2005, pp. 4-5. McDougall simply does not do so. Although the cited portion of McDougall describes message formats for controlling the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 5. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 5, and the rejection of this claim should be reversed.

5. Rejection of Claim 8

Claim 8 depends indirectly from independent claim 1. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 1, claim 8 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 8 recites "a command to retrieve a format structure and configuration capability structure pair of a conference," and "a command to retrieve a number of audio and video format structure and configuration capability structure pairs that are available in a conference." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 8. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by columns 22-26 of McDougall. Office Action, October 19, 2005, pp. 6-7. McDougall simply does not do so. Although the cited portion of McDougall describes message formats for various commands of the host-firmware interface protocol of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 8. The Examiner's failure to identify how McDougall discloses

these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 8, and the rejection of this claim should be reversed.

6. Rejection of Claim 11

Claim 11 depends indirectly from independent claim 1. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 1, claim 11 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 11 recites "a setting to specify a second time during which a speaker and a video switching process can not be taken over by a second speaker," and "a setting to specify a third time, the third time being the time when a switch is made and when a fast update request is sent to the speaker's system." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 11. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by columns 20-23 of McDougall. Office Action, October 19, 2005, p. 7. McDougall simply does not do so. Although the cited portion of McDougall describes message formats for various commands of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 11. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 11, and the rejection of this claim should be reversed.

7. Rejection of Claim 15

Claim 15 depends from independent claim 13. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 13, claim 15 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 15 recites "a command to complete updating a video frame and display the video

frame until commanded to release the video frame," and "an indication of a video temporal and spatial trade-off of the encoder." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 15. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by columns 10 and 11 of McDougall. Office Action, October 19, 2005, p. 8. McDougall simply does not do so. Although the cited portion of McDougall describes various signals from and to the CODECs of the video conferencing switch in the VFA mode, the cited portion of McDougall fails to disclose the above-recited elements of claim 15. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 15, and the rejection of this claim should be reversed.

8. Rejection of Claim 16

Claim 16 depends from independent claim 13. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 13, claim 16 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 16 recites "an indication that a set of macroblocks has been received with errors and has been treated as not coded," and "a command to set a relative tradeoff between a high spatial resolution and a high frame rate." First, Appellants respectfully point out that the Examiner has mischaracterized this claim as a computer-readable medium claim. Second, the Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 16. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by figures 20-24 of McDougall. Office Action, October 19, 2005, p. 8. McDougall simply does not do so. Although the cited portion of McDougall illustrates the handling of various events by a control system of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 16. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie*

case of anticipation with respect to claim 16, and the rejection of this claim should be reversed.

9. Rejection of Claim 17

Claim 17 depends from independent claim 13. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 13, claim 17 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 17 recites "a command to retrieve values of the error channel conditions with which the video pin may be setup, the values including a minimum value, a maximum value, a default value, and a support value," and "a command to retrieve values of the channel packet loss rate with which the video pin may be setup, the values including a minimum value, a maximum value, a default value, and a support value." First, Appellants respectfully point out that the Examiner has mischaracterized this claim as a computer-readable medium claim. Second, the Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 17. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by figures 20-24 of McDougall. Office Action, October 19, 2005, p. 8. McDougall simply does not do so. Although the cited portion of McDougall illustrates the handling of various events by a control system of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 17. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 17, and the rejection of this claim should be reversed.

10. Rejection of Claim 18

Claim 18 depends from independent claim 13. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 13, claim 18 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 18 recites "a command to retrieve the video pin's upper limit in bandwidth transmission," and "a command to retrieve values of the upper limit in bandwidth transmission with which the video pin may be setup." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 18. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by column 20 of McDougall. Office Action, October 19, 2005, p. 9. McDougall simply does not do so. Although the cited portion of McDougall describes message formats for various commands of the host-firmware interface protocol of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 18. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 18, and the rejection of this claim should be reversed.

11. Rejection of Claim 19

Claim 19 depends from independent claim 13. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 13, claim 19 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 19 recites "a command to retrieve the video frame's average display time," and "a command to retrieve values for the video frame's average display time with which the video pin may be setup." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 19. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by figures 40-44 of McDougall. Office Action, October 19, 2005, p. 9. McDougall simply does not do so. Although the cited portion of McDougall illustrates the various processes executed by the firmware of the video conferencing switch, the cited

portion of McDougall fails to disclose the above-recited elements of claim 19. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 19, and the rejection of this claim should be reversed.

12. Rejection of Claim 20

Claim 20 depends from independent claim 13. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 13, claim 20 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 20 recites "a command to supply the media service provider component the maximum RTP packet size," and "a command to retrieve values for the maximum RTP packet size with which the video pin may be setup." First, Appellants respectfully point out that the Examiner has mischaracterized this claim as a computer-readable medium claim. Second, the Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 20. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by figures 10-16 of McDougall. Office Action, October 19, 2005, p. 10. McDougall simply does not do so. Although the cited portion of McDougall illustrates various procedures conducted by a control system of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 20. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 20, and the rejection of this claim should be reversed.

13. Rejection of Claim 23

Claim 23 depends indirectly from independent claim 21. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 21, claim 23 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 23 recites "a property to do one of enabling automatic gain control and disabling automatic gain control," and "a property to retrieve a value of an audio level of a list of audio input streams." First, Appellants respectfully point out that the Examiner has mischaracterized this claim as a computer-readable medium claim. Second, the Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 23. In rejecting this claim, the Examiner merely indicated, without providing any further explanation, that the elements of this claim are disclosed by figures 20-24 of McDougall. Office Action, October 19, 2005, p. 10. McDougall simply does not do so. Although the cited portion of McDougall illustrates the handling of various events by a control system of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 23. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 23, and the rejection of this claim should be reversed.

14. Rejection of Claim 25

Claim 25 depends indirectly from independent claim 21. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 21, claim 25 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 25 recites "a property to do one of setting a time to evaluate whether a speaker is continuing to speak and getting a time to evaluate whether a speaker is continuing to speak," and "a property to do one of setting a second time during which a speaker and a video switching process can not be taken over by a second speaker and getting a second time during which a speaker and a video switching process can not be taken over by a second speaker." The Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 25. In rejecting this claim, the Examiner merely

indicated, without providing any further explanation, that the elements of this claim are disclosed by figures 6-8 of McDougall. Office Action, October 19, 2005, p. 11. McDougall simply does not do so. Although the cited portion of McDougall illustrates the handling of conference messages by a control system of the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 25. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 25, and the rejection of this claim should be reversed.

15. Rejection of Claim 33

Claim 33 depends indirectly from independent claim 21. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 21, claim 33 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 33 recites "a property to command the video output stream to use sync for every group of blocks," and "a property to provide an indication that a set of macroblocks has been received with errors and has been treated as not coded." First, Appellants respectfully point out that the Examiner has mischaracterized this claim as a computer-readable medium claim. Second, the Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 33. In rejecting this claim, the Examiner merely indicated that figures 20-24 of McDougall teach a fast update mode. Office Action, October 19, 2005, p. 12. Even assuming for the sake of argument that McDougall teaches a fast update mode, the cited portion of McDougall fails to disclose the above-recited elements of claim 33. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 33, and the rejection of this claim should be reversed.

16. Rejection of Claim 35

Claim 35 depends indirectly from independent claim 21. Accordingly, for at least the reasons discussed above in Section VII.B.2 with respect to claim 21, claim 35 is not anticipated by McDougall, and the rejection of this claim should be reversed.

Further, this claim should not be rejected because the Examiner has failed to provide any indication of how McDougall discloses various elements recited in this claim. Claim 35 recites "a property to do one of informing a video output pin of error channel conditions and supplying a media service provider component the error channel conditions," and "a property to do one of informing the video output pin of a channel packet rate loss and supplying the media service provider component the channel packet rate loss." First, Appellants respectfully point out that the Examiner has mischaracterized this claim as a computer-readable medium claim. Second, the Examiner has not identified anywhere in McDougall that discloses the aforementioned elements of claim 35. In rejecting this claim, the Examiner merely indicated that figures 45A-B of McDougall teach error detection. Office Action, October 19, 2005, p. 12. Although the cited portion of McDougall illustrates a process employed to decode messages in the video conferencing switch, the cited portion of McDougall fails to disclose the above-recited elements of claim 35. The Examiner's failure to identify how McDougall discloses these claimed elements constitutes a failure to make a *prima facie* case of anticipation with respect to claim 35, and the rejection of this claim should be reversed.

C. Conclusion

All of the claims on appeal are directed to an API that is exposed by an MPT. McDougall does not disclose an API that is exposed by an MPT. The Examiner's assertion that a terminal interface is the same as an API is not supported by McDougall and is contrary to how one skilled in the art views a terminal interface and an API. As such, the Examiner has not established that claims 1-8 and 10-41 are anticipated by McDougall.

The Examiner has also failed to establish a *prima facie* case of anticipation for claims 3, 5, 7, 8, 11, 15-20, 23, 25, 33 and 35. The Examiner has failed to provide any indication of how McDougall discloses various elements recited by these claims, and McDougall fails to disclose these recited elements.

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Respectfully submitted,

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VIII. CLAIMS APPENDIX**Claims Involved in the Appeal of Application Serial No. 09/539,026**

1. (Previously Presented) A computer-readable medium having computer-executable instructions for communicating between an application and a multipoint processing module adapted to mix, switch, and process media streams, the multipoint processing module having at least one audio processor module for processing audio data in a multipoint conference and at least one video processor module for processing video data in a multipoint conference, the computer-executable instructions performing the step of:

exposing at least one application program interface by the multipoint processing module to receive a request from the application to command the multipoint processing module to modify a default operation of the multipoint processing module to alter at least one attribute of at least one of the audio processor module and video processor module, the application program interface for interfacing software components.

2. (Previously Presented) The computer-readable medium of claim 1 wherein said at least one application program interface comprises an audio interface, the application using said audio interface to request the multipoint processing module to change a routing of at least one audio input stream towards at least one audio output stream.

3. (Original) The computer-readable medium of claim 2 wherein the request is selected from the group consisting of:

a command to retrieve an audio crossbar topology, the audio crossbar topology indicating how a set of audio input streams is being routed to a set of audio output streams;

a command to change the audio crossbar topology to indicate to the multipoint processing module how the set of audio input streams should be routed to a set of audio output streams;

a command to retrieve a value of an audio crossbar control parameter;

a command to set a value of an audio crossbar control parameter;

a command to retrieve a minimum value, a maximum value, and a default value for an audio crossbar control parameter;

a command to retrieve a mixing capability and a transcoding capability of the audio crossbar; and

a command to retrieve an audio level of a list of audio input streams.

4. (Previously Presented) The computer-readable medium of claim 1 wherein said at least one application program interface comprises a video interface, the application using said video interface to request the multipoint processing module to change a routing of at least one video input stream towards at least one video output stream.

5. (Original) The computer-readable medium of claim 4 wherein the request is selected from the group consisting of:

a command to retrieve a video crossbar topology, the video crossbar topology indicating how a set of video input streams is being routed to a set of video output streams based on a content of associated audio input streams;

a command to change the video crossbar topology to indicate to the multipoint processing module how the set of video input streams should be routed to a set of video output streams based on a content of associated audio input streams;

a command to retrieve a value of a video crossbar control parameter;

a command to set a value of a video crossbar control parameter;

a command to retrieve a minimum value, a maximum value, and a default value for a video crossbar control parameter;

a command to retrieve a mixing capability and a transcoding capability of the video crossbar; and
a command to retrieve a video level of a list of video input streams.

6. (Previously Presented) The computer-readable medium of claim 2 wherein said at least one application program interface further comprises a video interface, the application using said video interface to request the multipoint processing module to change a routing of at least one video input stream towards at least one video output stream.

7. (Previously Presented) The computer-readable medium of claim 6 wherein the request to route at least one audio input stream is selected from the group consisting of:

a command to retrieve an audio crossbar topology, the audio crossbar topology indicating how a set of audio input streams is being routed to a set of audio output streams;
a command to change the audio crossbar topology to indicate to the multipoint processing module how the set of audio input streams should be routed to a set of audio output streams;
a command to retrieve a value of an audio crossbar control parameter;
a command to set a value of an audio crossbar control parameter;
a command to retrieve a minimum value, a maximum value, and a default value for an audio crossbar control parameter;
a command to retrieve a mixing capability and a transcoding capability of the audio crossbar; and
a command to retrieve an audio level of a list of audio input streams;
the request to route at least one video input stream is selected from the group consisting of:

- a command to retrieve a video crossbar topology, the video crossbar topology indicating how a set of video input streams is being routed to a set of video output streams based on a content of associated audio input streams;
- a command to change the video crossbar topology to indicate to the multipoint processing module how the set of video input streams should be routed to a set of video output streams based on a content of associated audio input streams;
- a command to retrieve a value of a video crossbar control parameter;
- a command to set a value of a video crossbar control parameter;
- a command to retrieve a minimum value, a maximum value, and a default value for a video crossbar control parameter;
- a command to retrieve a mixing capability and a transcoding capability of the video crossbar; and
- a command to retrieve a video level of a list of video input streams.

8. (Previously Presented) The method of claim 7 wherein said at least one application program interface further comprises a format control interface, the application using said format control interface to retrieve and set an audio format and a video format, the format control interface comprising:

- a command to retrieve a preferred audio and video format for a conference;
- a command to set the preferred audio and video format for the conference;
- a command to retrieve a format structure and configuration capability structure pair of a conference, the format structure and configuration capability structure pair describing an audio and video format supported by the conference;
- a command to retrieve a number of audio and video format structure and configuration capability structure pairs that are available in a conference;
- a command to reorder a list of preferred audio formats; and
- a command to reorder a list of preferred video formats

9. (Original) The computer-readable medium of claim 3 wherein the audio crossbar control parameter is selected from a group of audio crossbar control parameters, the group comprising:

- a setting to specify a periodicity of an interrupt service routine;
- a setting to specify a maximum number of mixed input signals;
- a setting to enable and disable silence detection;
- a setting to enable and disable silence compression; and
- a setting to enable and disable automatic gain control.

10. (Original) The computer-readable medium of claim 3 wherein the multipoint processing module disables the command to set a value of an audio crossbar control parameter when a control flag is set.

11. (Original) The computer-readable medium of claim 5 wherein the video crossbar control parameter is selected from a group of video crossbar control parameters, the group comprising:

- a setting to specify a first time to evaluate whether a speaker is continuing to speak;
- a setting to specify a second time during which a speaker and a video switching process can not be taken over by a second speaker; and
- a setting to specify a third time, the third time being the time when a switch is made and when a fast update request is sent to the speaker's system.

12. (Original) The computer-readable medium of claim 5 wherein the multipoint processing module disables the command to set a value of a video crossbar control parameter when a control flag is set.

13. (Previously Presented) A method to communicate between a media service provider component and a multipoint processing module adapted to mix, switch, and process media streams, the multipoint processing module controlling an encoder module

and a decoder module for processing video data in a multipoint conference, the method comprising the step of:

exposing at least one application program interface by one of the media service provider component and the multipoint processing module to communicate commands and indications between the media service provider component and the multipoint processing module.

14. (Previously Presented) The method of claim 13 wherein said at least one application program interface further comprises a pin interface, the multipoint processing module using said pin interface to retrieve a direction and crossbar positional index of one of the audio streams and video streams.

15. (Previously Presented) The method of claim 13 wherein said at least one application program interface further comprises a decoder interface to handle decoder commands, the decoder interface comprising:

a command to complete updating a video frame and display the video frame until commanded to release the video frame; and
an indication of a video temporal and spatial trade-off of the encoder.

16. (Previously Presented) The method of claim 13 wherein said at least one application program interface further comprises an encoder interface to send encoder commands to the encoder, the encoder interface comprising:

a command to enter a fast-update mode;
a command to perform a fast update of a group of blocks;
a command to perform a fast update of a macroblock;
a command to use sync for every group of blocks;
an indication that a set of macroblocks has been received with errors and has been treated as not coded; and

a command to set a relative tradeoff between a high spatial resolution and a high frame rate.

17. (Original) The method of claim 13 wherein the multipoint processing module has a video pin, said at least one interface further comprises a network statistics interface to communicate network characteristics between the video pin and to the media service provider component, the network statistics interface comprising:

- a command to inform the video pin of error channel conditions;
- a command to supply the media service provider component the error channel conditions;
- a command to retrieve values of the error channel conditions with which the video pin may be setup, the values including a minimum value, a maximum value, a default value, and a support value;
- a command to inform the video pin a channel packet loss rate;
- a command to supply the media service provider component the channel packet loss rate; and
- a command to retrieve values of the channel packet loss rate with which the video pin may be setup, the values including a minimum value, a maximum value, a default value, and a support value.

18. (Original) The method of claim 13 wherein the multipoint processing module has a video pin, said at least one interface further comprises a bandwidth interface comprising:

- a command to specify an upper limit in bandwidth transmission of the video pin;
- a command to retrieve the video pin's upper limit in bandwidth transmission;
- a command to retrieve values of the upper limit in bandwidth transmission with which the video pin may be setup, the values including a minimum value, a maximum value, a default value, and a support value;

19. (Original) The method of claim 13 wherein the multipoint processing module has a video pin, said at least one interface further comprises a frame rate control interface comprising:

- a command to specify a video frame's average display time to the video pin;
- a command to retrieve the video frame's average display time;
- a command to retrieve values for the video frame's average display time with which the video pin may be setup, the values including a minimum value, a maximum value, a default value, and a support value.

20. (Original) The method of claim 13 wherein the multipoint processing module has a video pin, said at least one interface further comprises an RTP packet interface comprising:

- a command to adjust a maximum RTP packet size generated by the video pin;
- a command to supply the media service provider component the maximum RTP packet size; and
- a command to retrieve values for the maximum RTP packet size with which the video pin may be setup, the values including a minimum value, a maximum value, a default value, and a support value.

21. (Previously Presented) A multipoint processing accelerator apparatus for transmitting audio and video data over a plurality of channels in a multipoint conference being controlled by an application, the application controlling the apparatus by an application program interface of the apparatus, the apparatus comprising:

- at least one hardware module having a default operation for applying signal processing operations to at least one of the audio and video data; and
- a minidriver, said minidriver communicating with the application through at least one property set to do one of receiving a command to modify the default operation of the at least one hardware module and sending a command to the application.

22. (Original) The apparatus according to claim 21 wherein the at least one property set comprises an audio topology property set.

23. (Original) The apparatus according to claim 22 wherein the audio topology property set comprises:

- a property to do one of updating an audio crossbar content and retrieving an audio crossbar content;
- a property to retrieve mixing and transcoding capabilities of an audio crossbar;
- a property to do one of setting a periodicity of an interrupt service routine and getting a periodicity of an interrupt service routine;
- a property to do one of setting a maximum number of mixed input signals and getting a maximum number of mixed input signals;
- a property to do one of enabling silence detection and disabling silence detection;
- a property to do one of enabling automatic gain control and disabling automatic gain control; and
- a property to retrieve a value of an audio level of a list of audio input streams.

24. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a video topology property set.

25. (Original) The apparatus according to claim 24 wherein the video topology property set comprises:

- a property to do one of updating a video crossbar content and retrieving a video crossbar content;
- a property to retrieve picture composition capabilities of the video crossbar;
- a property to do one of setting a periodicity of an interrupt service routine and getting a periodicity of an interrupt service routine;

- a property to do one of setting a time to evaluate whether a speaker is continuing to speak and getting a time to evaluate whether a speaker is continuing to speak;
- a property to do one of setting a second time during which a speaker and a video switching process can not be taken over by a second speaker and getting a second time during which a speaker and a video switching process can not be taken over by a second speaker; and
- a property to do one of setting a third time and getting a third time, the third time being the time when a switch is made and when a fast update request is sent to the speaker's system.

26. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a decoder property set.

27. (Original) The apparatus according to claim 26 wherein the decoder property set comprises:

- a property to specify that a video frame update be completed and a video frame be displayed until receiving a release signal; and
- a property to indicate a video temporal and spatial trade-off of an encoder.

28. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a video encoder send property set.

29. (Original) The apparatus according to claim 28 wherein the at least one hardware module comprises a video encoder, the video encoder send property set comprises:

- a property to signal to the application that it needs to send a command to the video encoder.

30. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a stream topology property set.

31. (Original) The apparatus according to claim 30 wherein the stream topology property set comprises:

a property to retrieve a direction and crossbar positional index of a stream.

32. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a video encoder property set.

33. (Original) The apparatus according to claim 32 wherein the video encoder property set comprises:

a property to command a video output stream to enter a fast update picture mode;

a property to command the video output stream to perform a fast update of a group of blocks;

a property to command the video output stream to perform a fast update of a macroblock;

a property to command the video output stream to use sync for every group of blocks; and

a property to provide an indication that a set of macroblocks has been received with errors and has been treated as not coded.

34. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a network statistics property set.

35. (Previously Presented) The apparatus according to claim 34 wherein the network statistics property set comprises:

- a property to do one of informing a video output pin of error channel conditions and supplying a media service provider component the error channel conditions; and
- a property to do one of informing the video output pin of a channel packet rate loss and supplying the media service provider component the channel packet rate loss.

36. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a bandwidth property set.

37. (Original) The apparatus according to claim 36 wherein the bandwidth property set comprises:

- a property to do one of specifying an upper limit in bandwidth transmission to a video output pin and supplying the upper limit bandwidth transmission of the video output pin to a media service provider component.

38. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a frame rate property set.

39. (Original) The apparatus according to claim 38 wherein the frame rate property set comprises:

- a property to do one of specifying a video frame's average display time to a video output pin and supplying the video frame average display time to a media service provider component.

40. (Original) The apparatus according to claim 21 wherein the at least one property set comprises a RTP control property set.

41. (Original) The apparatus according to claim 40 wherein the RTP control property set comprises:

a property to do one of retrieving a maximum RTP packet size and setting the maximum RTP packet size.

42-54. (Cancelled)

IX. EVIDENCE APPENDIX

No evidence has been entered or is being relied upon in the present appeal.

X. RELATED PROCEEDINGS APPENDIX

There are no decisions rendered by a court or the Board in any proceeding identified in the Related Appeals and Interferences section.